

Serial No.: 09/175,156

Attorney Docket No.: 1998P07912US

REMARKS

Upon entry of the instant Amendment, Claims 1-27 are pending. Claim 16 has been amended in response to the Section 112 rejection.

Claim 16 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In particular, the term "ringing signaling an incoming telephone call" was alleged to be unclear and needing "grammatical correction." The claim has been amended to recite "ringing signaling for an incoming telephone call." Additional grammatical or antecedent basis objections have also been addressed in the amendment. As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 1-27 have been rejected under 35 U.S.C. 102(e) as being unpatentable over Burg, U.S. Patent No. 6,219,413 ("Burg"). In order for there to be anticipation, each and every element of the claimed invention must be present in a single prior reference. Applicants respectfully submit that the claimed invention is not taught, suggested, or implied by Burg.

As discussed in the Specification, and in response to the previous Official Action, according to one embodiment of the present invention, a telephone device may be provided that includes a ring detector, a command interface, a controller and a telephone network interface. In response to an incoming call, the ring detector alerts the called party and causes the controller to activate the command interface. The command interface is activated for a predetermined time while the call is still ringing. While activated, the called party can select or enter a customized playback message using the telephone.

Thus, claim 1 recites "means for generating a user alert in response to the incoming phone call, said generating means including a ring signal detection means;" and "means at a called party's telephone for enabling selective entry of a user message

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in response to the alert while the incoming call is pending and still ringing to the calling party;" claim 6 recites "means at a called party's telephone for enabling selective entry of a user message in response to the alert while the incoming call is pending and still ringing to the calling party;" claim 10 recites "a ringer alerting a called party to the incoming call in response to the detection signal; a command interface for receiving one or more message parameters from the called party; and a controller for activating the command interface in response to the detection signal;" and "a controller for activating the command interface in response to the detection signal and for transferring the customized message to the caller, wherein the controller is an element of the telephone;" and claim 16 recites "generating, from the recipient telephone, a user alert in response to the incoming telephone call ringing signaling, based on the incoming telephone call; receiving a command from a called party in response to the user alert; generating from the recipient telephone, an audio message based on the command while the incoming call is pending."

In contrast, as discussed in response to the previous Official Action, Burg provides that a telephone gateway "intercepts" an incoming call when a called party is connected to his Internet service provider over his telephone line, i.e., via a modem. The computer is then alerted to the call, over the data network, but not using a ring signal. For example, at column 5, lines 4-5, Burg states "[t]elephony gateway 156 will transmit a digital data message to the called party's computer 100" and not the called party's telephone 160.

The telephone itself receives no notification at all and, in particular, does not receive a notification by a ringing signal. Indeed, the telephone in Burg can never be provided with a ringing signal because it is busy.

Embodiments of the present invention, however, provide circuitry in the telephone that detects the ringing signal and, in response, allows a user to generate a message to the calling party via the telephone.

That is, in the present invention, the telephone itself may be used to generate or

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communicate with a server to generate or select the outgoing message. In contrast, in Burg, the telephone is never used for such purposes. Instead, as noted above, in Burg, the user's computer receives signaling from the Internet service provider's gateway and can then use the computer to send a message to the service provider. See, e.g., Col. 5, lines 56-62, in which the called party of Burg can respond by clicking an option window in the computer. Nowhere does Burg hint that the telephone can be used for such purposes. Indeed, if anything, Burg teaches that the phone cannot be used because the line is busy.

Further, Applicants note that claim 1 further recites "a timing means responsive to the ring signal detection means for timing a predetermined period during which a called party can select to generate the user message." As noted above, Burg does not provide a ring signal detection means. Burg likewise does not provide a timer responsive to such a detection means. Indeed, the Official Action does not appear to address this limitation.


As such, the Examiner is respectfully requested to reconsider and withdraw the rejection.

For all of the above reasons, Applicants respectfully submit that the application is in condition for allowance, which allowance is earnestly solicited.

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